

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW JERSEY**

IN RE:

Case No. 3:16-bk-32083

Judge \_\_\_\_\_

Wagner, Philip K. III

Debtor(s)

Chapter 13

**CHAPTER 13 PLAN AND MOTIONS**

☐ Original

☒ Modified/Notice Required

☒ Discharge Sought

☒ Motions Included

☐ Modified/No Notice Required

☐ No Discharge Sought

Date: June 29, 2017

THE DEBTOR HAS FILED FOR RELIEF UNDER  
CHAPTER 13 OF THE BANKRUPTCY CODE

**YOUR RIGHTS WILL BE AFFECTED**

You should have received from the court a separate *Notice of the Hearing on Confirmation of Plan*, which contains the date of the confirmation hearing on the Plan proposed by the Debtor. This document is the actual Plan proposed by the Debtor to adjust debts. You should read these papers carefully and discuss them with your attorney. Anyone who wishes to oppose any provision of this Plan or any motion included in it must file a written objection within the time frame stated in the Notice. **This Plan may be confirmed and become binding, and included motions may be granted without further notice or hearing, unless written objection is filed before the deadline stated in the Notice.**

**YOU SHOULD FILE A PROOF OF CLAIM BY THE DEADLINE STATED  
IN THE NOTICE TO RECEIVE DISTRIBUTIONS UNDER ANY PLAN  
THAT MAY BE CONFIRMED, EVEN IF THE PLAN REFERS TO YOUR CLAIM**

**Part 1: Payment and Length of Plan**

- a. The debtor has paid \$2,852.00 to date and shall pay \$ 413.00 per month to the Chapter 13 Trustee, starting on 7/01/2017 for approximately 28 months.
- b. The Debtor shall make plan payments to the Trustee from the following sources:  
☒ Future Earnings  
☐ Other sources of funding (describe source, amount and date when funds are available):
- c. Use of real property to satisfy plan obligations:  
☐ Sale of real property  
Description:  
Proposed date for completion: \_\_\_\_\_  
☐ Refinance of real property  
Description:  
Proposed date for completion: \_\_\_\_\_  
☒ Loan modification with respect to mortgage encumbering property  
Description: **606 Coolidge Ave., Toms River, NJ**  
Proposed date for completion: **November 31, 2017**
- d. ☐ The regular monthly mortgage payment will continue pending the sale, refinance or loan modification.
- e. ☐ Other information that may be important relating to the payment and length of plan:

**Part 2: Adequate Protection**

**Certificate of Notice Page 2 of 6**

a. Adequate protection payments will be made in the amount of \$ **None** to be paid to the Chapter 13 Trustee and disbursed pre-confirmation to \_\_\_\_\_ (creditor).

b. Adequate protection payments will be made in the amount of \$ \_\_\_\_\_ to be paid directly by the debtor(s) outside the Plan, pre-confirmation to \_\_\_\_\_ (creditor).

**Part 3: Priority Claims (Including Administrative Expenses)**

All allowed priority claims will be paid in full unless the creditor agrees otherwise:

Creditor	Type of Priority	Amount to be Paid
<b>Capone &amp; Keefe, PC</b>	<b>Attorney fee</b>	<b>1,750.00</b>

**Part 4: Secured Claims****a. Curing Default and Maintaining Payments**

The Debtor shall pay to the Trustee (as part of the Plan) allowed claims for arrearages on monthly obligations and the debtor shall pay directly to the creditor (outside the Plan) monthly obligations due after the bankruptcy filing as follows:

Creditor	Collateral or Type of Debt	Arrearage	Interest Rate on Arrearage	Amount to be Paid to Creditor (In Plan)	Regular Monthly Payment (Outside Plan)
<b>Specialized Loan Servicing/Sls</b>	606 Coolidge Ave, Toms River, NJ 08753-7846	<b>26,460.00</b>	<b>0.00%</b>	<b>10,972.72</b>	<b>1,262.04</b>
<b>Toms River Municipal Utilities Auth</b>	606 Coolidge Ave, Toms River, NJ 08753-7846	<b>572.48</b>	<b>0.00%</b>	<b>237.28</b>	<b>0.00</b>

**b. Modification**

1.) The debtor values collateral as indicated below. If the claim may be modified under Section 1322(b)(2), the secured creditor shall be paid the amount listed as the "Value of the Creditor Interest in Collateral," plus interest as stated. The portion of any allowed claim that exceeds that value shall be treated as an unsecured claim. If a secured claim is identified as having "NO VALUE" it shall be treated as an unsecured claim.

**NOTE: A modification under this section ALSO REQUIRES the appropriate motion to be filed under Section 7 of the Plan.**

Creditor	Collateral	Scheduled Debt	Total Collateral Value	Superior Liens	Value of Creditor Interest in Collateral	Annual Interest Rate	Total Amount to be Paid
<b>None</b>							

2.) Where the Debtor retains collateral and completes the Plan, payment of the full amount of the allowed secured claim shall discharge the corresponding lien.

**c. Surrender**

Upon confirmation, the stay is terminated as to surrendered collateral. The Debtor surrenders the following collateral:

Creditor	Collateral to be Surrendered	Value of Surrendered Collateral	Remaining Unsecured Debt
<b>None</b>			

**d. Secured Claims Unaffected by the Plan**

The following secured claims are unaffected by the Plan:  
**None**

**e. Secured Claims to Be Paid in Full Through the Plan**

Creditor	Collateral	Total Amount to be Paid through the Plan
<b>None</b>		

**Part 5: Unsecured Claims**

**a. Not separately classified** allowed non-priority unsecured claims shall be paid:

\_\_\_\_ Not less than \$ \_\_\_\_\_ to be distributed *pro rata*  
\_\_\_\_ Not less than \_\_\_\_\_ percent  
☒ *Pro Rata* distribution from any remaining funds

**b. Separately Classified Unsecured Claims** shall be treated as follows:

Creditor	Basis for Separate Classification	Treatment	Amount to be Paid
<b>Navient</b>	<b>Student Loans</b>	<b>To be paid outside plan, deferred or placed into forbearance pursuant to contract</b>	
<b>Wells Fargo</b>	<b>Student Loans</b>	<b>to be paid outside plan, deferred or placed into forbearance pursuant to contract</b>	

**Part 6: Executory Contracts and Unexpired Leases**

All executory contracts and unexpired leases are rejected, except the following, which are assumed:

Creditor	Nature of Contract or Lease	Treatment by Debtor
<b>None</b>		

**Part 7: Motions**

**NOTE: All plans containing motions must be served on all potentially affected creditors, together with local form, *Notice of Chapter 13 Plan Transmittal*, within the time and in the manner set forth in D.N.J. LBR 3015-1. A *Certification of Service* must be filed with the Clerk of Court when the plan and transmittal notice are served.**

**a. Motion to Avoid Liens under 11 U.S.C. Section 522(f).**

The Debtor moves to avoid the following liens that impair exemptions:

Creditor	Nature of Collateral	Type of Lien	Amount of Lien	Value of Collateral	Amount of Claimed	Sum of All Other	Amount of Lien to be
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					Exemption	Liens Against the Property	Avoided
None							

**b. Motion to Void Liens and Reclassify Claim from Secured to Completely Unsecured.**

The Debtor moves to reclassify the following claims as unsecured and to void liens on collateral consistent with Part 4 above:

Creditor	Collateral	Amount of Lien to be Reclassified
Seaview Orthopaedic	606 Coolidge Ave, Toms River, NJ 08753-7846	1,120.00

**c. Motion to Partially Void Liens and Reclassify Underlying Claims as Partially Secured and Partially Unsecured.**

The Debtor moves to reclassify the following claims as partially secured and partially unsecured, and to void liens on collateral consistent with Part 4 above:

Creditor	Collateral	Amount to be Deemed Secured	Amount to be Reclassified as Unsecured
None			

**Part 8: Other Plan Provisions****a. Vesting of Property of the Estate**

☒ Upon Confirmation  
☐ Upon Discharge

**b. Payment Notices**

Creditors and Lessors provided for in Sections 4, 6 or 7 may continue to mail customary notices or coupons to the Debtor notwithstanding the automatic stay.

**c. Order of Distribution**

The Trustee shall pay allowed claims in the following order:

- 1) **Trustee Commissions**
- 2) **Other Administrative Claims**
- 3) **Secured Claims**
- 4) **Lease Arrearages**
- 5) **Priority Claims**
- 6) **General Unsecured Claims**

**d. Post-petition claims** The Trustee ☐ is, ☒ is not authorized to pay post-petition claims filed pursuant to 11 U.S.C. Section 1305(a) in the amount filed by the post-petition claimant.

**Part 9: Modification**

If this plan modifies a plan previously filed in this case, complete the information below.

Date of Plan being modified: **11/18/2016**

Explain below <b>why</b> the Plan is being modified.	Explain below <b>how</b> the Plan is being modified.
<b>To extend the time period for the Debtor to obtain a loan modification.</b>	

Are Schedules I and J being filed simultaneously with this Modified Plan? ☐ Yes ☒ No

#### Part 10: Sign Here

The Debtor(s) and the attorney for the Debtor (if any) must sign this Plan.

Date: 6/29/17

/s/ Marc Capone

Attorney for the Debtor

I certify under penalty of perjury that the above is true.

Date: 6/29/17

/s/ Philip K. Wagner III

Debtor

\_\_\_\_\_  
Joint Debtor

**Certificate of Notice Page 6 of 6**  
 United States Bankruptcy Court  
 District of New Jersey

In re:  
 Philip K. Wagner, III  
 Debtor

Case No. 16-32083-CMG  
 Chapter 13

**CERTIFICATE OF NOTICE**

District/off: 0312-3

User: admin  
 Form ID: pdf901

Page 1 of 1  
 Total Noticed: 18

Date Rcvd: Jun 30, 2017

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Jul 02, 2017.

db Philip K. Wagner, III, 606 Coolidge Ave, Toms River, NJ 08753-7846  
 cr +Specialized Loan Servicing LLC, as servicing agent, P. O. Box 9013, Addison, TX 75001-9013  
 516507000 Phelan Hallinan, Diamond & Jones, 400 Fellowship Rd Ste 100, Mount Laurel, NJ 08054-3437  
 516507001 Pressler & Pressler, 7 Entin Rd, Parsippany, NJ 07054-5020  
 516507002 Seaview Orthopaedic, 1200 Eagle Ave, Ocean, NJ 07712-7631  
 516507003 Specialized Loan Servicing/Sls, Attn: Bankruptcy, PO Box 636005, Littleton, CO 80163-6005  
 516507004 Toms River Municipal Utilities Auth, 340 W Water St, Toms River, NJ 08753-6533  
 516636968 +U.S. Bank N.A., Trustee (See 410), c/o Specialized Loan Servicing LLC, 8742 Lucent Blvd, Suite 300, Highlands Ranch, Colorado 80129-2386  
 516507005 Wells Fargo, Attention: Bankruptcy MAC# X2303-01A, PO Box 41169, Des Moines, IA 50311-0503  
 516634737 Wells Fargo Bank, POB 10438 MAC F8235-02F, Des Moines, IA 50306-0438  
 516628990 +Wells Fargo Bank N A, Wells Fargo Education Financial Services, 301 E 58th Street N, Sioux Falls SD 57104-0422

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center. smg E-mail/Text: usan.j.njbankr@usdoj.gov Jun 30 2017 22:42:10 U.S. Attorney, 970 Broad St., Room 502, Rodino Federal Bldg., Newark, NJ 07102-2534

smg +E-mail/Text: ustpregion03.ne.ecf@usdoj.gov Jun 30 2017 22:42:04 United States Trustee, Office of the United States Trustee, 1085 Raymond Blvd., One Newark Center, Suite 2100, Newark, NJ 07102-5235  
 516506998 E-mail/PDF: creditonebknotifications@resurgent.com Jun 30 2017 22:39:02 Credit One Bank NA, PO Box 98873, Las Vegas, NV 89193-8873  
 516636837 E-mail/PDF: resurgentbknotifications@resurgent.com Jun 30 2017 22:39:25 LVNV Funding, LLC its successors and assigns as, assignee of FNBK, LLC, Resurgent Capital Services, PO Box 10587, Greenville, SC 29603-0587  
 516506999 E-mail/PDF: pa\_dc\_claims@navient.com Jun 30 2017 22:39:04 Navient, Attn: Claims Dept, PO Box 9500, Wilkes Barre, PA 18773-9500  
 516543364 E-mail/PDF: pa\_dc\_litigation@navient.com Jun 30 2017 22:39:05 Navient Solutions, Inc. on behalf of, United Student Aid Funds, Inc., Attn: Bankruptcy Litigation Unit E3149, PO Box 9430, Wilkes Barre, PA 18773-9430  
 516668536 +E-mail/PDF: gecsed@recoverycorp.com Jun 30 2017 22:39:10 Synchrony Bank, c/o of PRA Receivables Management, LLC, PO Box 41021, Norfolk, VA 23541-1021  
 TOTAL: 7

\*\*\*\*\* BYPASSED RECIPIENTS \*\*\*\*\*

NONE.

TOTAL: 0

Addresses marked '+' were corrected by inserting the ZIP or replacing an incorrect ZIP. USPS regulations require that automation-compatible mail display the correct ZIP.

Transmission times for electronic delivery are Eastern Time zone.

**I, Joseph Speetjens, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.**

**Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed. R. Bank. P. 2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.**

Date: Jul 02, 2017

Signature: /s/Joseph Speetjens

**CM/ECF NOTICE OF ELECTRONIC FILING**

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on June 29, 2017 at the address(es) listed below:

Albert Russo docs@russotrustee.com  
 Denise E. Carlson on behalf of Creditor Banc of America Funding Corporation 2007-2, U.S. Bank National Association, as Trustee dcarlson@kmlawgroup.com, bkgroup@kmlawgroup.com  
 Francesca Ann Arcure on behalf of Creditor Specialized Loan Servicing LLC, as servicing agent for U.S. Bank National Association, as Trustee of the Banc of America Funding Corporation (BAFC) 2007-2 Trust nj\_ecf\_notices@buckleymadole.com  
 Marc C. Capone on behalf of Debtor Philip K. Wagner, III mcapone@caponeandkeefe.com, docs@caponeandkeefe.com

TOTAL: 4